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6 Attorneys for Defendant  
Afni, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DERWIN GRANT

**Plaintiff.**

vs.

AFNL, INC.

**Defendant**

) CASE NO.: C 07 2850 CW

**SUPPLEMENTAL REPLY  
MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT  
OF DEFENDANT'S MOTION FOR  
JUDGMENT ON THE  
PLEADINGS**

Date: September 6, 2007

) Time: 2:00 p.m.

) Ctrm: 2, 4<sup>th</sup> Floor

The Honorable Claudia Wilken

## I. ARGUMENT

On July 26, 2007, the Court issued an order continuing the hearing of Defendant's pending Motion For Judgment On The Pleadings and setting a further briefing schedule. The Court noted that Plaintiff had not filed an opposition to Defendant's motion and ordered Plaintiff to do so by August 16. The Court informed Plaintiff that if he failed to file a timely opposition, "the Court will decide the motion on the record before it," and "reminded [Plaintiff] that if he does not file and serve a written opposition, the Court may deem this failure to act to be consent to the granting of Defendant's Motion for Judgment on the Pleadings." The Court also stated that "[t]his notice shall constitute the only such notice from the Court concerning the Defendant's motion."

As of August 21, Plaintiff has not filed an opposition. Consistent with the Court’s July 26 Order, Defendant renews its request that the Court deem Plaintiff’s failure to file an opposition as his consent to the granting of Defendant’s motion.

## II. CONCLUSION

For the unopposed reasons stated in Defendant's Memorandum of Points and Authorities, the Motion For Judgment On The Pleadings should be granted. Plaintiff has failed to indicate that he can amend his complaint to assert facts that would state a valid claim under the FDCPA or the FCRA. Nor could he. Accordingly, Defendant respectfully requests that this Court issue an Order, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, granting judgment in its favor with prejudice.

DATED: August 21, 2007

SIMMONDS & NARITA LLP  
TOMIO B. NARITA  
JEFFREY A. TOPOR

By: s/Jeffrey A. Topor

Jeffrey A. Topor  
Attorneys for Defendant

## **PROOF OF SERVICE**

I, the undersigned, declare:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is 44 Montgomery Street, Suite 3010, San Francisco, California 94104-4816.

I am readily familiar with the business practices of my employer, Simmonds & Narita LLP, for the collection and processing of correspondence by mailing with the United States Postal Service and that said correspondence is deposited with the United States Postal Service that same day in the ordinary course of business.

On this date, I served a copy of the following document:

**1) SUPPLEMENTAL REPLY MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT OF DEFENDANT'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

by causing such document to be placed in a sealed envelope for collection and delivery by the United States Postal Service to the addressee indicated below:

VIA U.S. MAIL

Derwin Grant  
245 Henry Street  
San Francisco, CA 94114  
Plaintiff in Pro Per

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California on this 21st day of August, 2007.

Stephanie Schmitt